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IN THE

Supreme Court of the United States

October Term, 1969

Docket No. 1351

DEERING MILLIKEN, INC.,
Petitioner,

against

KORATRON COMPANY, INC.,
Respondent.

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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In another attempt to mask the true nature of this action, respondent now contends that "no question at all of *jurisdiction* was presented to or decided by the court below." According to respondent "the only question • • • was one of *venue*." And since jurisdiction, according to respondent, was not argued below, it may not be considered on this petition. This is, we submit, sophistic nonsense. We have at all times argued that this is, in reality, an action for patent infringement—where the federal courts alone have jurisdiction and where the special patent venue statute applies. True, the final question here is one of

venue: New York or California? But the critical threshold question is of jurisdiction. May the exclusive jurisdiction of the federal courts over patent infringement actions be ousted by casting an infringement claim in language of common law tort?

Certiorari should here be granted to preserve and protect the exclusive jurisdiction of the federal courts over the operation of a homogeneous patent system. The alternative is to permit the establishment by states, counties, cities, towns and justices of the peace of their doubtless individualized notions of proper patent systems.

Dated: New York, New York
May 1, 1970

Respectfully submitted,

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